

**Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Lifeline and Link Up Reform and)	WC Docket No. 11-42
Modernization)	
)	
Federal-State Joint Board on Universal)	CC Docket No. 96-45
Service)	
)	WC Docket No. 12-23
Advancing Broadband Availability Through)	
Digital Literacy Training)	
)	WC Docket No. 03-109
Lifeline and Link Up		

**PETITION FOR WAIVER OF THE PUBLIC SERVICE COMMISSION OF THE
DISTRICT OF COLUMBIA**

INTRODUCTION AND SUMMARY

Pursuant to section 1.3 of the Federal Communications Commission's (FCC) rules, the Public Service Commission of the District of Columbia (DC PSC) files this petition to waive the June 1, 2012¹ deadline for compliance with 47 C.F.R. § 54.410(b)(2)(ii), 54.410(c)(2)(ii), 47 C.F.R. § 54.410(d), and 54.410(e) promulgated by the recent *Lifeline Modernization Order*.² The DC PSC and the state agency responsible for certifying and recertifying customers for Lifeline service (state certification agency) in the District of Columbia, the District Department of the Environment (DDOE), seek a waiver of 47 C.F.R. § 54.410(b)(2)(ii), 47 C.F.R. § 54.410(c)(2)(ii), and 47 C.F.R. § 54.410(e) until April 1, 2013 because these rules would impose

¹ *Further Inquiry into Four Issues in the Universal Service Lifeline/Link Up Reform and Modernization Proceeding, Lifeline and Link Up Reform and Modernization; Lifeline and Link Up; Federal-State Joint Board on Universal Service; Advancing Broadband Availability Through Digital Literacy Training*, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, Public Notice at 4, rel. May 1, 2012.

² *Further Inquiry into Four Issues in the Universal Service Lifeline/Link Up Reform and Modernization Proceeding, Lifeline and Link Up Reform and Modernization; Lifeline and Link Up; Federal-State Joint Board on Universal Service; Advancing Broadband Availability Through Digital Literacy Training*, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, Report and Order and Further Notice of Proposed Rulemaking ("*Lifeline Modernization Order*"), rel. February 6, 2012.

heavy administrative burdens on DDOE to comply while noting that notice of Lifeline service eligibility would already be provided to the eligible telecommunications carrier (ETC) through compliance with 47 C.F.R. § 54.410(b)(2)(i) and 47 C.F.R. § 54.410(c)(2)(i). The DC PSC and DDOE also need additional time to modify the Lifeline service application form, so the DC PSC seeks an extension of time until August 1, 2012 to comply with 47 C.F.R 54.410(d).

THE *LIFELINE MODERNIZATION ORDER* REQUIRES STATE CERTIFICATION AGENCIES TO AMEND MANY ADMINISTRATIVE PROCESSES.

For many years, District of Columbia low-income consumers have gone to DDOE to verify that they are eligible for wireline Lifeline service,³ the Low Income Home Energy Assistance Program (LIHEAP), and other District of Columbia utility discount programs (UDP).⁴ DDOE's current process for certifying new customers for these programs requires new applicants to make an in-person appointment with DDOE and present proof of income materials, proof of participation in qualifying programs, age and other identifying information, and utility bills to DDOE staff at the appointment. DDOE staff inputs this information directly into its database, while copies are made of the supporting documentation. If the documentation provided is sufficient to show qualification for the programs at the appointment, then an approval letter is printed for the consumer to take at the conclusion of the appointment.

DDOE's annual recertification procedures differ slightly, as customers are allowed to recertify for Lifeline service and the other UDPs by mail. A recertification application is mailed out to current Lifeline and UDP customers in July and August each year, with a return deadline of October. To recertify, customers must return the recertification application and copies of the

³ As the DC PSC has noted in several filings, DDOE certifies only those customers seeking wireline Lifeline service. Wireless ETCs certify their own customers in the District of Columbia.

⁴ These discount programs are for water, gas, and electric service.

documentation supporting their continued qualification for Lifeline service and the other UDPs. DDOE enters the information from the recertification applications into its database and retains the paper copies of the recertification application and supporting documentation.

Currently, DDOE provides three types of lists of customers deemed eligible for Lifeline service (customer lists) at different times throughout the year to the wireline ETC, Verizon Washington, DC Inc. (Verizon DC), and to the District of Columbia Universal Service Trust Fund Administrator (DC USTF Administrator). As new customers are certified, DDOE periodically sends customer lists to Verizon DC and the DC USTF Administrator. These customer lists contain a complete list of customers eligible for Lifeline service. When the ETC applies for reimbursement from the District of Columbia Universal Service Trust Fund (DC USTF), DDOE provides Verizon DC and the DC USTF Administrator with customer lists, so that the DC USTF Administrator can compare Verizon DC's lists of eligible customers with DDOE's list to advise the DC PSC on the amount of reimbursement that Verizon DC should receive. Additionally, after the recertification period has ended, DDOE provides a list that includes existing customers who have not recertified to Verizon DC (regrade list) so that their Lifeline service is discontinued. DDOE, Verizon DC, and other members of the District of Columbia Universal Service Trust Fund Working Group (DC USTF WG) then request the DC PSC's permission to have Verizon DC end the Lifeline discount for those customers that are on DDOE's regrade list.

The *Lifeline Modernization Order* may require DDOE to make several changes to these procedures. Under 47 C.F.R. § 54.410(b)(2) and 47 C.F.R. § 54.410(c)(2), ETCs are not permitted to seek reimbursement from the federal universal service fund unless the state certifying agency has provided notice that the customer is eligible for Lifeline and a copy of that

customer's application to the ETC.⁵ Separately, 47 C.F.R. § 54.410(e) requires state certification agencies to provide copies of customer certification forms to ETCs. While DDOE currently complies with the notice provisions of 47 C.F.R. § 54.410(b)(2)(i) and 47 C.F.R. § 54.410(c)(2)(i) by providing Verizon DC updated customer lists on a periodic basis, it does not currently provide Verizon DC with copies of the completed customer applications pursuant to 47 C.F.R. § 54.410(b)(2)(ii), 47 C.F.R. § 54.410(c)(2)(ii), and 47 C.F.R. § 54.410(e). DDOE will have to change its procedures to comply with this requirement.

47 C.F.R. § 54.410(d) requires the inclusion of very detailed information about Lifeline on the Lifeline application. It also requires customers to certify that they understand and agree with the detailed requirements of the Lifeline program.⁶ DDOE's current UDP application does not include this information or require these certifications, necessitating amendments.

GOOD CAUSE EXISTS TO GRANT A WAIVER OF THE DEADLINE TO COMPLY WITH 47 C.F.R. § 54.410(b)(2)(ii), 47 C.F.R. § 54.410(c)(2)(ii), AND 47 C.F.R. § 54.410(e).

The FCC may waive its rules for good cause shown.⁷ Good cause includes the existence of particular facts that make strict compliance with the rule inconsistent with the public interest.⁸ The FCC may also take into account considerations of hardship, equity, or more effective implementation of public policy on an individual basis.⁹ The DC PSC seeks a waiver of the June 1, 2012 deadline to comply with 47 C.F.R. § 54.410(b)(2)(ii), 47 C.F.R. § 54.410(c)(2)(ii), and

⁵ 47 C.F.R. § 54.410(b)(2) and 47 C.F.R. § 54.410(c)(2). A copy of the approval printout that is provided to the customer will probably not satisfy the requirements of 47 C.F.R. § 54.410(b)(2)(ii) and 47 C.F.R. § 54.410(c)(2)(ii), since the printout will not contain all of the verifications required by 47 C.F.R. § 54.410(d)..

⁶ 47 C.F.R. § 54.410(c).

⁷ 47 C.F.R. § 1.3 (2011).

⁸ *Northeast Cellular Telephone Com. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

⁹ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied* 409 U.S. 1027 (1972); *Northeast Cellular Telephone Com. v. FCC* at 1166.

47 C.F.R. § 54.410(e) because of the unique burdens these rules place on the DC PSC and DDOE.

As noted above, DDOE processes new applications during in-person interviews, in which information regarding a customer's eligibility is input directly into an electronic form of the application that is loaded into the DDOE database. Regardless of whether these copies were transmitted to Verizon DC in electronic or paper form, DDOE and Verizon DC would need to develop a secure means of transmitting these copies, since they contain sensitive personal information. DDOE indicates that it does not have the staff, equipment, or funding necessary to make these changes, especially by June 1, 2012.¹⁰ DDOE needs until April 1, 2013 to comply with 47 C.F.R. § 54.410(b)(2)(ii) and 47 C.F.R. § 54.410(c)(2)(ii) for several reasons. First, since DDOE determines eligibility for LIHEAP as well as Lifeline and other UDPs, it experiences a much higher application volume from August through December, as eligible customers seek energy assistance for the winter heating months. Additionally, the annual recertification period runs from August through October. During these months, DDOE must review initial and recertification applications in a timely manner. DDOE does not have the staff or other resources to develop a new process for transmitting copies of applications to Verizon DC from August through December 2012. DDOE also has concerns about the transfer of confidential client information and is working with its IT department to develop a secure process for transmitting this information. However, developing a secure process will take additional time, staff, and resources.¹¹ Considering that 47 C.F.R. § 54.410(b)(2)(i) and 47 C.F.R. § 54.410(c)(2)(i) already require DDOE to provide Verizon DC with a list of eligible customers

¹⁰ *Formal Case No. 813 and Formal Case No. 988*, Report of the Universal Service Trust Fund Working Group on Compliance with the FCC Lifeline Order, filed April 2, 2012.

¹¹ The DC PSC notes that it has begun to schedule meetings for DDOE, Verizon DC, and other stakeholders to develop and implement these new processes.

(which DDOE already does), Verizon DC will have proof that DDOE has approved the customer for Lifeline service. Because of the administrative burdens that compliance with C.F.R. § 54.410(b)(2)(ii), 47 C.F.R. § 54.410(c)(2)(ii), and 47 C.F.R. § 54.410(e) by June 1, 2012 would entail and because the ETC already receives eligible customer lists, a deviation from the deadline to comply these rules is necessary and appropriate.

Granting a waiver would also be in the public interest. Because DDOE already provides customer lists, the federal Lifeline fund will be protected, since Verizon DC will be able to demonstrate that it is seeking funding for eligible customers only.¹² The FCC should waive the deadline for complying with 47 C.F.R. § 54.410(b)(2)(i), 47 C.F.R. § 54.410(c)(2)(i), and 47 C.F.R. § 54.410(e) until April 1, 2013.

GOOD CAUSE EXISTS TO GRANT A WAIVER OF THE JUNE 1, 2012 DEADLINE FOR COMPLYING WITH 47 C.F.R. § 54.410(d).

The *Lifeline Modernization Order* also requires states to comply with the new application requirements in 47 C.F.R. § 54.410(d) by June 1, 2012. The DC PSC, DDOE, and other stakeholders in the District of Columbia have been working diligently to attempt to comply with this deadline. The working group amending the application submitted the proposed revised UDP application to the DC PSC for approval on May 18, 2012.¹³ The DC PSC will review this proposed application expeditiously. Even with this effort, it is impossible for the new application to be approved by the DC PSC, translated, printed, and uploaded to the DDOE database by June 1, 2012. Thus, the DC PSC requests an extension of time to comply with 47 C.F.R. § 54.410(d) until August 1, 2012, by which time the new application should be approved by the DC PSC and uploaded into the DDOE database.

¹² See, *Lifeline Modernization Order* at 54, ¶ 111.

¹³ *Formal Case No. 813 and Formal Case No. 988*, Report of the Utility Discount Program Education Working Group, filed May 14, 2012; Errata, filed May 18, 2012.

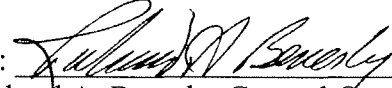
CONCLUSION

Because of the difficulties inherent in the provision of copies of Lifeline application to the ETC, the DC PSC requests a waiver of the June 1, 2012 deadline to comply with 47 C.F.R. § 54.410(b)(2)(ii), 47 C.F.R. § 54.410(c)(2)(ii), and 47 C.F.R. § 54.410(e) in the District of Columbia. The DC PSC seeks extension of the deadline until April 1, 2013. Additionally, the DC PSC seeks an extension of the June 1, 2012 deadline to August 1, 2012 to comply with 47 C.F.R. § 54.410(d) because there is insufficient time to complete the modifications to the UDP application. The DC PSC, DDOE, and the other stakeholders in the District of Columbia will continue to diligently work to implement the other reforms contained in the *Lifeline Modernization Order* as quickly and efficiently as possible.

The DCPSC appreciates the opportunity to submit this petition for waiver.

Respectfully submitted,

**PUBLIC SERVICE COMMISSION
of the DISTRICT OF COLUMBIA**

By: 
Richard A. Beverly, General Counsel
Lara Howley Walt

1333 H Street, N.W.
Suite 200, West Tower
Washington, D.C. 20005
202-626-5100

Its Attorneys

May 23, 2012